

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1406 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

BARODA MUNICIPAL CORPORATION

Versus

BARODA SHAHER SUDHRAI NAUKAR MANDAL

Appearance:

MR PRANAV G DESAI for Petitioner
RULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 17/02/2000

ORAL JUDGEMENT

1. This is a petition under Article 227 of the Constitution at the instance of the petitioner - Baroda Municipal Corporation, challenging the judgement and award of the Industrial Tribunal, Baroda in Reference [IT] No. 10/85.

2. It may be noted here that the said award contemplates and grants three demands made by the Union, which may be conveniently referred as demand No.1 to 3 respectively.

3. Learned counsel for the petitioner sought to urge that the grant of all the three demands is unreasonable and deserves to be quashed and set aside. I have not permitted learned counsel for the petitioner to argue the question as regards the grant of demands No.2 and 3 for the simple reason that the petition is confined to the grant of demand No.1. This is made clear from para 3 of the petition as well as the prayer clause para 8[A] and [D] of the petition.

4. I therefore consider only the question of grant of demand No.1, which directs the petitioner Corporation "to set up a security office at Sayajibaug". In the context of the illegality or unreasonableness of granting such a demand, a short and casual reference to para 3 of the impugned judgement is necessary. Reference is made in the said paragraph to the effect that approximately 75 employees are working at Sayajibaug, and therefore they may have minor / major problems in respect of leave, service conditions etc. To attend to such problems, such employees have to go from Sayajibaug to Khanderao Market, which is "about 1 KM away". On the basis of these assertions, assuming that they have been established as facts, I fail to understand how a distance of about 1 KM which may have to be travelled for the purpose of obtaining settlement of such minor problems, is unjustified, and that the only solution is to establish at Sayajibaug a "security office".

The Tribunal has obviously not taken into consideration the fact that establishing a security office at Sayajibaug has many financial and administrative implications. It may require setting up a new establishment, it may require at the very least the expansion of the parent establishment which may exist in the main Municipal Office building, it may require the construction of a building to house such a new establishment at Sayajibaug, and all these incidents are further likely to give rise to other complications, apart from the substantial capital investment that may be required. These are the basic aspects which have completely escaped the attention of the Tribunal.

5. Although I am conscious of the limited jurisdiction of this Court under Article 227 of the

Constitution, on the facts and circumstances of the case, I am satisfied that the Tribunal has granted demand No.1 as made by the Union, almost blindly, and without regard to all the relevant and pertinent circumstances attendant to the case.

6. On an inquiry being made by the Court, learned counsel for the petitioner states on instructions that the security officer is attending to Sayajibaug everyday from 8.00 a.m. to 9.30 a.m. This system has worked satisfactorily so far, although by the ad interim orders passed in the petition since 8th of April 1987, no security office was established.

7. I am therefore of the opinion that the grant of demand No.1 made by the Union, and allowed by the Tribunal under the impugned judgement and award is not sustainable and is accordingly quashed and set aside. It is however directed that the security officer shall attend Sayajibaug atleast for 1.1/2 hours on every working day.

8. This petition is accordingly allowed to the aforesaid extent and rule is made absolute with no orders as to costs.

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